

BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE  
FOR THE STATE OF TENNESSEE

#209

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#908

title agency

TENNESSEE INSURANCE DIVISION,  
Petitioner,

vs.

No: 08-098

\* A & R TITLE AND CLOSING, INC.,  
\* A & R TITLE COMPANY, INC. and  
AGNES ODLE,  
Respondents.

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CONSENT ORDER

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WHEREAS the Insurance Division of the State of Tennessee Department of Commerce and Insurance (the "Division"), by and through counsel, and A & R Title and Closing, Inc., A & R Title Company, Inc. and Agnes Odle (collectively "Respondents"), also through counsel, hereby stipulate and agree, subject to the approval of the Commissioner of Commerce and Insurance (the "Commissioner"), as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.

2. The Commissioner has determined that the resolution set forth in this Consent Order is fair and reasonable and in the best public interest.

3. This Consent Order is executed by the Respondents for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

4. Respondents fully understand that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondents for acts and/or omissions not specifically addressed in this Consent Order or for acts and/or omissions that do not arise from the acts or transactions herein addressed. Respondents also understand that this Consent Order may be used by the Commissioner or any Commissioner, Department or Board to revoke or refuse to issue any license Respondents currently hold or for which they apply in the future.

5. Respondents expressly waive all further procedural steps and expressly waive all rights to seek judicial review of or to otherwise challenge or contest the validity of this Consent Order, the stipulation and imposition of discipline contained herein and the consideration and entry of said Consent Order by the Commissioner.

#### **FINDINGS OF FACT**

6. The Commissioner has jurisdiction pursuant to the Tennessee Insurance Law (the "Law"), Title 56 of Tennessee Code Annotated, and the Law places the responsibility for the administration of its provisions on the Commissioner.

7. The Division is the lawful agent through which the Commissioner administers the Law and is authorized to bring this action for the protection of the public.

8. Respondents A & R Title and Closing, Inc. and A & R Title Company, Inc. are title insurance agencies and Tennessee corporations with their last known principal places of business located at 245 East New Street, #203, Kingsport, Tennessee 37660 and 209 East Moody Avenue, Knoxville, Tennessee 37920, respectively. Respondent Odle is president of both A & R Title and Closing, Inc. and A & R Title Company, Inc. Respondent Odle resides at 1437 Glenmar Avenue, Mt. Carmel, Tennessee 37645.

9. Respondents A & R Title and Closing, Inc. and A & R Title Company, Inc. have Certificates of Authority issued by the Department, numbered 209 and 908, respectively, authorizing them to conduct title insurance business in Tennessee as title insurance agencies.

10. Respondent A & R Title and Closing, Inc. operated branch locations in Knoxville, Kingsport and Goodlettsville, Tennessee and Gate City, Virginia.

11. Stewart Title, a Texas corporation having its principal place of business located in Houston, Texas, engages in underwriting and issuing title insurance in Tennessee. A & R Title and Closing, Inc. is a former Stewart Title authorized Tennessee agent.

12. On August 2006, Stewart Title retained the services of a licensed private investigator to investigate the business practices of A & R Title and Closing, Inc. after numerous checks from the A & R Title and Closing, Inc.'s Goodlettsville office were returned due to insufficient funds.

13. The investigation revealed that A & R Title and Closing, Inc. had banking accounts (*i.e.*, operating accounts, general accounts and escrow accounts) with AmSouth Bank, Fifth Third Bank, First Tennessee Bank and SunTrust Bank.

14. At one time, the A & R Title and Closing, Inc. Goodlettsville office escrow account was overdrawn by nine hundred fifty-three thousand five hundred twenty-nine and 12/100 dollars (\$953,529.12).

15. At the same time, the A & R Title and Closing, Inc. Knoxville office escrow account was overdrawn by three hundred ninety-four one hundred twenty-two and 74/100 dollars (\$394,122.74).

16. Stewart Title had previously issued closing letters for mortgage loan closings for which A & R Title and Closing, Inc. held escrow funds. As a result of overdrawn and missing escrow funds, Stewart Title had received numerous claims from lenders, purchasers and borrowers.

17. Based on its investigation and information received, the Department determined that A & R Title and Closing, Inc. owner, Rick Odle, transferred funds between various A & R Title and Closing, Inc. escrow accounts in an effort to avoid overdrafts and shortages that were caused by mismanagement and/or misappropriation of escrow funds.

## CONCLUSIONS OF LAW

18. TENN. CODE ANN. § 56-6-112(a)(2) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license for anyone who violates any law, rule, regulation, subpoena or order of the Commissioner or of another state's Commissioner.

19. TENN. CODE ANN. § 56-6-112(a)(4) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license for anyone who improperly withholds, misappropriates or converts any moneys or properties received in the course of doing insurance business.

20. TENN. CODE ANN. § 56-6-112(a)(8) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or may levy a civil penalty for anyone who uses fraudulent, coercive or dishonest practices, or demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

21. Based upon the Findings of Facts cited above, the Commissioner finds that Respondents, through the actions of its owner, Rick Odle, violated the insurance laws, improperly withheld, misappropriated or converted moneys received in the course of doing insurance business and used fraudulent, coercive or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business based on the facts contained herein. Such facts would constitute grounds for an Order revoking Respondents' Certificates of Authority.

## ORDER

**NOW THEREFORE**, on the basis of the foregoing and the waiver of Respondents of their rights to a hearing and appeal under the Law and Tennessee's Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101, *et seq.*, and the admission by Respondents of the jurisdiction of the Commissioner, the Commissioner finds that Respondents have agreed to the entry of this Consent Order and that this Consent Order is appropriate and in the public interest.

**IT IS ORDERED**, pursuant to TENN. CODE ANN. §§ 56-6-112 and 56-35-101 *et seq.* that:

The Certificates of Authorities issued to Respondents A & R Title and Closing, Inc. and A & R Title Company, Inc., numbered 209 and 908, respectively, are hereby **REVOKED**.

This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By signature affixed below, Agnes Odle, president for A & R Title and Closing, Inc., A & R Title Company, Inc., affirmatively states that she has freely agreed to the entry of this Consent Order, that she has been advised that he may consult with legal counsel in this matter, and has had the opportunity to consult with legal counsel, that she waives her right to a hearing on the matters underlying this Consent Order and that no threats or promises of any kind have been made by the Commissioner, the Division or any agent thereof.

The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Consent Order, are binding upon them.

**SO ORDERED.**

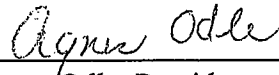
**ENTERED** this the 29<sup>th</sup> day of July, 2008.

Leslie A. Newman  
Leslie A. Newman, Commissioner  
Department of Commerce and Insurance

**APPROVED FOR ENTRY:**



Larry C. Knight, Jr.  
Assistant Commissioner for Insurance  
Department of Commerce and Insurance  
Davy Crockett Tower  
500 James Robertson Parkway  
4<sup>TH</sup> Floor  
Nashville, Tennessee 37243



Agnes Odle, President  
A & R Title and Closing, Inc.  
A & R Title Company, Inc.  
1437 Glenmar Avenue  
Mt. Carmel, Tennessee 37645



Bruce Poag (BPR # 19543)  
Assistant General Counsel  
Department of Commerce and Insurance  
Davy Crockett Tower  
500 James Robertson Parkway  
12<sup>TH</sup> Floor  
Nashville, Tennessee 37243  
615.253.7994